

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

SANJIV N. DAVESHWAR,

Case No. 3:20-cv-00612-MMD-CLB

Petitioner,

ORDER

v.

GARRETT, *et al.*,

Respondents.

Pro se 28 U.S.C. § 2254 Petitioner Sanjiv N. Daveswar has filed a motion for extension of time (ECF No. 16) to respond to Respondents' motion to dismiss (ECF No. 13). Good cause appearing, Petitioner's motion is granted.

Petitioner has also filed a second motion for appointment of counsel (ECF No. 17). As the Court explained previously, there is no constitutional right to appointed counsel for a federal habeas corpus proceeding. *See Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Bonin v. Vasquez*, 999 F.2d 425, 428 (9th Cir.1993). The decision to appoint counsel is generally discretionary. *See Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986), *cert. denied*, 481 U.S. 1023 (1987); *Bashor v. Risley*, 730 F.2d 1228, 1234 (9th Cir. 1984), *cert. denied*, 469 U.S. 838 (1984). However, counsel must be appointed if the complexities of the case are such that denial of counsel would amount to a denial of due process, and where the petitioner is a person of such limited education as to be incapable of fairly presenting his claims. *See Chaney*, 801 F.2d at 1196. In his second motion for appointment of counsel, Daveswar notes that due to COVID-19 restrictions it is difficult for him to get legal help from other inmates, and he is unsure of how to respond to the motion to dismiss. (ECF No. 17) However, as the Court stated in denying his first motion for counsel, the Petition presents his claims in a reasonably clear manner, and the legal

1 issues do not appear to be particularly complex. Davesghwar has not presented
2 persuasive new arguments that counsel is warranted. Therefore, the motion is denied.

3 Finally, Respondents have filed a motion to file certain exhibits under seal. (ECF
4 No. 14) While there is a presumption favoring public access to judicial filings and
5 documents, see *Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 597 (1978), a party
6 seeking to seal a judicial record may overcome the presumption by demonstrating
7 “compelling reasons” that outweigh the public policies favoring disclosure. *Kamakana v.*
8 *City and Cnty. of Honolulu*, 447 F.3d 1172, 1178-79 (9th Cir. 2006) (citations omitted). In
9 general, “compelling reasons” exist where the records may be used for improper
10 purposes. *Kamakana*, 447 F.3d at 1179 (citing *Nixon*, 435 U.S. at 598). Respondents
11 explain that these exhibits contain confidential information, including personal identifiers
12 for petitioner and the victim as well as psychological evaluations. The Court will therefore
13 grant the motion.

14 It is therefore ordered that Davesghwar’s second motion for appointment of counsel
15 (ECF No. 17) is denied.

16 It is further ordered that Davesghwar’s motion for extension of time to respond to
17 the motion to dismiss (ECF No. 16) is granted. Davesghwar must file his response on or
18 before **November 3, 2021**.

19 It is further ordered that Respondents’ motion to file certain exhibits under seal
20 (ECF No. 14) is granted.

21 It is further ordered that respondents’ motion for extension of time to respond to
22 the petition (ECF No. 10) is granted *nunc pro tunc*.

23 DATED THIS 16th Day of August 2021.

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26 MIRANDA M. DU
27 CHIEF UNITED STATES DISTRICT JUDGE
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